

**Effective 5/10/2016**

**57-1-28 Sale of trust property by trustee -- Payment of bid -- Trustee's deed delivered to purchaser -- Recitals -- Effect.**

- (1)
  - (a) The purchaser at the sale shall pay the price bid as directed by the trustee.
  - (b) The beneficiary shall receive a credit on the beneficiary's bid in an amount not to exceed the amount representing:
    - (i) the unpaid principal owed;
    - (ii) accrued interest as of the date of the sale;
    - (iii) advances for the payment of:
      - (A) taxes;
      - (B) insurance; and
      - (C) maintenance and protection of the trust property;
    - (iv) the beneficiary's lien on the trust property; and
    - (v) costs of sale, including reasonable trustee's and attorney's fees.
- (2)
  - (a)
    - (i) Within five business days of the day the trustee receives payment of the price bid, the trustee shall:
      - (A) execute and submit the trustee's deed to the county recorder for recording; and
      - (B) upon the purchaser's request, provide an unrecorded copy of the signed trustee's deed to the purchaser.
    - (ii) If the trustee does not comply with this Subsection (2)(a), the trustee is liable for any loss incurred by the purchaser because of the trustee's failure to comply with this Subsection (2)(a).
  - (b) The trustee's deed may contain recitals of compliance with the requirements of Sections 57-1-19 through 57-1-36 relating to the exercise of the power of sale and sale of the property described in the trustee's deed, including recitals concerning:
    - (i) any mailing, personal delivery, and publication of the notice of default;
    - (ii) any mailing and the publication and posting of the notice of sale; and
    - (iii) the conduct of sale.
  - (c) The recitals described in Subsection (2)(b):
    - (i) constitute prima facie evidence of compliance with Sections 57-1-19 through 57-1-36; and
    - (ii) are conclusive evidence in favor of bona fide purchasers and encumbrancers for value and without notice.
- (3) The trustee's deed shall operate to convey to the purchaser, without right of redemption, the trustee's title and all right, title, interest, and claim of the trustor and the trustor's successors in interest and of all persons claiming by, through, or under them, in and to the property sold, including all right, title, interest, and claim in and to the property acquired by the trustor or the trustor's successors in interest subsequent to the execution of the trust deed, which trustee's deed shall be considered effective and relate back to the time of the sale.
- (4) In accordance with Section 57-3-106, an interest of a purchaser in a trustee's deed that is recorded with the county recorder may not be divested if a person records an affidavit or other document purporting to rescind or cancel the trustee's deed.

Amended by Chapter 305, 2016 General Session